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#4

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:

Applicant(s) : Clinton W. Pike and David H. Nordmeyer  
Serial No. : 10/088,291  
Filed : March 14, 2002  
Title : MASONRY MORTAR AND STUCCO CEMENT COMPOSITIONS  
Docket : ASH 116 P2

Assistant Commissioner for Patents  
Washington, D. C. 20231

Sir:

PETITION UNDER 37 CFR 1.47(a)

This petition is being filed under 37 CFR 1.47(a) by the undersigned on behalf of David H. Nordmeyer (hereinafter "Mr. Nordmeyer") to establish the refusal of joint inventor, Clinton W. Pike (hereinafter "Mr. Pike"), to join in the above referenced application for patent. The required fee also accompanies this petition.

By way of background, Mr. Pike is a former employee of ISG Resources, Inc. (hereinafter ISG). It is noted that ISG is the current assignee of the above referenced application for whom the enclosed and executed assignments (Exhibit A) are being filed concurrently herewith. During Mr. Pike's employment with ISG, he jointly developed the idea for the above referenced invention with Mr. Nordmeyer. Upon Mr. Pike's departure from ISG, it was believed that he resided at 12707 Secret Forest Court, Cypress, Texas, 77429.

It is further noted that the above referenced patent application claims priority benefit of International PCT application PCT/US00/25907 filed September 21, 2000, and U.S. Provisional Application Serial No. 60/155,861 filed September 24, 1999. The published PCT application was filed upon entry into the U.S. national stage. As such, it is understood that Mr. Pike already was quite familiar with the application as filed with the USPTO. Accordingly, the following attempts were made to obtain Mr. Pike's signature on a Declaration with respect to the above referenced invention.

The first attempt at reaching Mr. Pike to obtain his signature was by letter dated March 12, 2002 (Exhibit B). The letter was sent to 12707 Secret Forest

unsigned Declaration. The letter requested execution of the Declaration so that it could accompany a filing of the application with the United States Patent & Trademark Office (hereinafter "USPTO"). No return receipt or executed Declaration was received from Mr. Pike in lieu of this first letter.

A second and final attempt at obtaining Mr. Pike's signature was made by letter dated May 29, 2002 (Exhibit C). The letter again was sent to 12707 Secret Forest Court, Cypress, Texas, 77429 by certified mail return receipt requested and included an unsigned Declaration. The letter similarly requested execution of the Declaration so that it could be filed with the USPTO. A signed return receipt card was received with a date of delivery of June 3, 2002, but an executed Declaration has never been received from Mr. Pike.

In light of the above, the undersigned, on behalf of Mr. Nordmeyer, accordingly is requesting that the USPTO kindly accept under 37 CFR 1.47(a) this petition and enclosed fee along with the accompanying Declaration (Exhibit D) signed by Mr. Nordmeyer on behalf of both inventors to complete the requirements for acceptance of the above referenced application under 35 U.S.C. 371.

Finally, it is believed that the last known address for Mr. Pike is 12707 Secret Forest Court, Cypress, Texas, 77429.

Respectfully submitted,  
BIEBEL & FRENCH

By Bruce E. Peacock  
Bruce E. Peacock  
Reg. No. 28,457

35 East First Street  
Dayton, Ohio 45402  
(937) 461-4543  
July 22, 2002

# **EXHIBIT A**

ASSIGNMENT

WHEREAS, I, David H. Nordmeyer, of 213 County Road 575, Castroville, Medina County, Texas 78009, along with Clinton W. Pike, of 12707 Secret Forest Court, Cypress, Harris County, Texas 77429, invented certain new and useful (Docket ASH 116 P2 USP1) MASONRY CEMENT COMPOSITIONS for which we executed an application for letters patent of the United States, on September 24, 1999;

AND WHEREAS, ISG Resources, Inc., a corporation of the State of Utah, with a place of business at 136 East South Temple, Suite 1300, Salt Lake City, Utah 84111, hereinafter called the Assignee, is desirous of acquiring the entire right, title and interest in and to said application and the inventions therein disclosed and any letters patent that may issue thereon;

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, receipt whereof is hereby acknowledged, I hereby sell, assign and transfer unto said Assignee, its successors and assigns, my entire right, title and interest in and to said application and any divisions or continuations thereof, and the inventions therein disclosed, and any improvements thereon, and any patent or patents that may be issued or reissued thereon, and I hereby authorize and request the Commissioner of Patents and Trademarks to issue any letters patent thereon, and reissues thereof, to said Assignee, its successors and assigns; and I hereby authorize said Assignee, its successors and assigns, to file in its own name applications for patent in foreign countries in connection with the inventions hereby transferred, under the International Convention, the European Patent Convention and the Patent Cooperation Treaty, claiming the priority of said United States application or otherwise, and to secure in its own name the patent or patents issued thereon; and I hereby agree that, upon request, I will sign all papers, and make all rightful oaths, and do all acts which said Assignee, its successors or assigns, may consider necessary in connection with said United States application, and in connection with any other United States or foreign applications that may be filed in connection with said inventions, and with any improvements thereon, and in connection with any patents issued or reissued thereon.

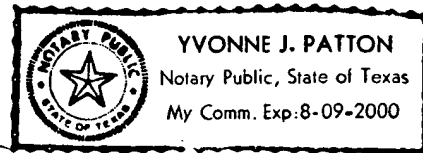
October, 1999. IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 22 day of

David H. Nordmeyer  
David H. Nordmeyer

State of Texas )  
County of Bexar ) ss

On this 22nd day of October, 1999, before me a Notary Public in and for the above County and State, personally appeared the above named David H. Nordmeyer and acknowledged the execution of the foregoing assignment as a free act and deed for the purpose herein set forth.

Yvonne J. Patton  
Notary Public




ASSIGNMENT

WHEREAS, I, Clinton W. Pike, of 12707 Secret Forest Court, Cypress, Harris County, Texas 77429, along with David H. Nordmeyer, of 213 County Road 575, Castroville, Medina County, Texas 78009, invented certain new and useful (Docket ASH 116 P2 USP1) MASONRY CEMENT COMPOSITIONS for which we executed an application for letters patent of the United States, on September 24, 1999;

AND WHEREAS, ISG Resources, Inc., a corporation of the State of Utah, with a place of business at 136 East South Temple, Suite 1300, Salt Lake City, Utah 84111, hereinafter called the Assignee, is desirous of acquiring the entire right, title and interest in and to said application and the inventions therein disclosed and any letters patent that may issue thereon;

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, receipt whereof is hereby acknowledged, I hereby sell, assign and transfer unto said Assignee, its successors and assigns, my entire right, title and interest in and to said application and any divisions or continuations thereof, and the inventions therein disclosed, and any improvements thereon, and any patent or patents that may be issued or reissued thereon, and I hereby authorize and request the Commissioner of Patents and Trademarks to issue any letters patent thereon, and reissues thereof, to said Assignee, its successors and assigns; and I hereby authorize said Assignee, its successors and assigns, to file in its own name applications for patent in foreign countries in connection with the inventions hereby transferred, under the International Convention, the European Patent Convention and the Patent Cooperation Treaty, claiming the priority of said United States application or otherwise, and to secure in its own name the patent or patents issued thereon; and I hereby agree that, upon request, I will sign all papers, and make all rightful oaths, and do all acts which said Assignee, its successors or assigns, may consider necessary in connection with said United States application, and in connection with any other United States or foreign applications that may be filed in connection with said inventions, and with any improvements thereon, and in connection with any patents issued or reissued thereon.

  
Clinton W. Pike



L. KATHLEEN GRAHAM  
MY COMMISSION EXPIRES  
April 25, 2003



# **EXHIBIT B**

LAW OFFICES

BRUCE E. PEACOCK  
MICHAEL D. FOLKERTS  
STEVEN D.A. MCCARTHY  
RANDY S. JACKSON, JR.

**BIEBEL & FRENCH**  
A LEGAL PROFESSIONAL ASSOCIATION  
35 EAST FIRST STREET

DAYTON, OHIO 45402

937/461-4543

FACSIMILE NO. 937-443-0861

biebel@erinet.com

LAWRENCE B. BIEBEL  
(1906 - 1989)

NATHANIEL R. FRENCH  
(1913-1994)

COUNSEL  
GILBERT HENDERSON

March 12, 2002

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Clinton W. Pike  
12707 Secret Forest Court  
Cypress, Texas 77429

Re: U.S. Patent Application for  
**Masonry, Mortar, and Stucco Cement Compositions**  
Based on PCT Application No. PCT/US00/25907 filed September 21, 2000  
Our Docket: ASH 116 P2

Dear Buddy:

Enclosed is the Declaration for the above-identified patent application. Please execute this document in the appropriate space on page 3 and return the same to my office via regular mail. If possible, please fax the Declaration to my office as well so that it can be included with the patent application when we file this application with U.S. Patent and Trademark Office.

Thank you for your assistance. If you have any questions, please contact me.

Best regards.

Sincerely,  
BIEBEL & FRENCH



Bruce E. Peacock

BEP:bas  
Enclosure

cc: Curtis J. Brown

Mail Provides:  
a receipt  
to identify for you  
the item upon delivery  
and of delivery  
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LAW OFFICES

BRUCE E. PEACOCK  
MICHAEL D. FOLKERTS  
STEVEN D.A. MCCARTHY  
RANDY S. JACKSON, JR.

COUNSEL  
GILBERT HENDERSON

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Thank you for your assistance. If you have any questions, please contact me.

Best regards,

Sincerely,  
BIEBEL & FRENCH

*Bruce*

Bruce E. Peacock

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

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Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

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Recipient's Name (Please Print Clearly) (To be completed by mailer)	
Mr. Clinton W. Pike	
Street, Apt. No.; or PO Box No.	
12707 Secret Forest Court	
City, State, ZIP+4	
Cypress, TX 77429	
PS Form 3800, February 2000	
See Reverse for Instructions	

7000 0520 0013 3681 6257

Docket No.  
**ASH 116 P2**

# Declaration For Patent Application

## English Language Declaration

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**MASONRY, MORTAR, AND STUCCO CEMENT COMPOSITIONS**

the specification of which

(check one)

☐ is attached hereto.

☐ was filed on 21 September 2000 as United States Application No. or PCT International Application Number PCT/US00/25907 and was amended on \_\_\_\_\_

(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<input type="checkbox"/>
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<input type="checkbox"/>
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<input type="checkbox"/>

I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional application(s) listed below:

60/155,861

(Application Serial No.)

24 September 1999

(Filing Date)

\_\_\_\_\_  
(Application Serial No.)

\_\_\_\_\_  
(Filing Date)

\_\_\_\_\_  
(Application Serial No.)

\_\_\_\_\_  
(Filing Date)

I hereby claim the benefit under 35 U. S. C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, CFR Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

PCT/US00/25907

(Application Serial No.)

21 September 2000

(Filing Date)

\_\_\_\_\_  
(Status)  
(patented, pending, abandoned)

\_\_\_\_\_  
(Application Serial No.)

\_\_\_\_\_  
(Filing Date)

\_\_\_\_\_  
(Status)  
(patented, pending, abandoned)

\_\_\_\_\_  
(Application Serial No.)

\_\_\_\_\_  
(Filing Date)

\_\_\_\_\_  
(Status)  
(patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor	
Clinton W. Pike	
Sole or first inventor's signature	Date
Residence	
12707 Secret Forest Court, Cypress, Texas 77429	
Citizenship	
U.S.A.	
Post Office Address	
ISG Resources, Inc.	
136 East South Temple, Suite 1300, Salt Lake City, Utah 84111 U.S.A.	

Full name of second inventor, if any	
David H. Nordmeyer	
Second inventor's signature	Date
Residence	
213 County Road 575, Castroville, Texas 78009	
Citizenship	
U.S.A.	
Post Office Address	
ISG Resources, Inc.	
136 East South Temple, Suite 1300, Salt Lake City, Utah 84111 U.S.A.	

Full name of third inventor, if any	
Third inventor's signature	Date
Residence	
Citizenship	
Post Office Address	

Full name of fourth inventor, if any	
Fourth inventor's signature	Date
Residence	
Citizenship	
Post Office Address	

# **EXHIBIT C**

LAW OFFICES

BRUCE E. PEACOCK  
MICHAEL D. FOLKERTS  
STEVEN D.A. MCCARTHY  
RANDY S. JACKSON, JR.

**BIEBEL & FRENCH**  
A LEGAL PROFESSIONAL ASSOCIATION  
35 EAST FIRST STREET

DAYTON, OHIO 45402

937/461-4543

FACSIMILE NO. 937-443-0861

biebel@erinet.com

May 29, 2002

LAWRENCE B. BIEBEL  
(1906 - 1989)

NATHANIEL R. FRENCH  
(1913-1994)

COUNSEL  
GILBERT HENDERSON

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

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12707 Secret Forest Court  
Cypress, Texas 77429

Re: U.S. Patent Application for  
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Thank you for your assistance. If you have any questions, please contact me.

Best regards.

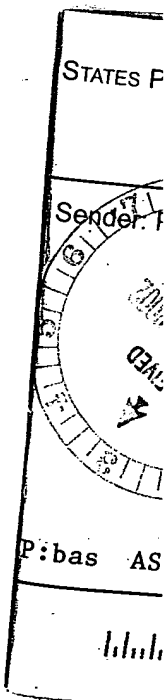
Sincerely,  
BIEBEL & FRENCH

*Bruce*

Bruce E. Peacock

BEP:bas  
Enclosure

cc: Curtis J. Brown



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## LAW OFFICES

BRUCE E. PEACOCK  
MICHAEL D. FOLKERTS  
STEVEN D.A. MCCARTHY  
RANDY S. JACKSON, JR.

## BIEBEL &amp; FRENCH

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Thank you for your assistance. If you have any questions, please contact me.

Best regards.

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>1. Article Addressed to:</p> <p>Mr. Clinton W. Pike 12707 Secret Forest Court Cypress, TX 77429</p>		<p>A. Received by (Please Print Clearly) <i>[Signature]</i> B. Date of Delivery <i>6/3/02</i></p>	
<p>2. Article Number (Copy from service label) 7000 0520 0013 3681 6264</p>		<p>C. Signature <i>[Signature]</i></p>	
<p>3. Article Number (Copy from service label) 7000 0520 0013 3681 6264</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>	
<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>		<p>5. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>6. Recipient's Name (Please Print Clearly) (To be completed by) Clinton W. Pike 12707 Secret Forest Court Cypress, TX 77429</p>		<p>7. Return Receipt Requested <i>[Signature]</i></p>	

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-095

# **EXHIBIT D**

Docket No.  
ASH 116 P2

# Declaration For Patent Application

## English Language Declaration

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**MASONRY, MORTAR, AND STUCCO CEMENT COMPOSITIONS**

the specification of which

(check one)

☐ is attached hereto.

☒ was filed on 21 September 2000 as United States Application No. or PCT International Application Number PCT/US00/25907 and was amended on \_\_\_\_\_

(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

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I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

60/155,861	24 September 1999
(Application Serial No.)	(Filing Date)
(Application Serial No.)	(Filing Date)
(Application Serial No.)	(Filing Date)

PCT/US00/25907	21 September 2000	
(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)
(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)
(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor	
Clinton W. Pike	
Sole or first inventor's signature	Date
Residence	
12707 Secret Forest Court, Cypress, Texas 77429	
Citizenship	
U.S.A.	
Post Office Address	
ISG Resources, Inc.	
136 East South Temple, Suite 1300, Salt Lake City, Utah 84111 U.S.A.	

Full name of second inventor, if any	
David H. Nordmeyer	
Second inventor's signature	Date
Residence	
213 County Road 575, Castroville, Texas 78009	
Citizenship	
U.S.A.	
Post Office Address	
ISG Resources, Inc.	
136 East South Temple, Suite 1300, Salt Lake City, Utah 84111 U.S.A.	

Full name of third inventor, if any	
Third inventor's signature	Date
Residence	
Citizenship	
Post Office Address	

Full name of fourth inventor, if any	
Fourth inventor's signature	Date
Residence	
Citizenship	
Post Office Address	